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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,874	04/28/2005	Akseli Reho	3502-1076	2290
466	7590	06/14/2006	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			CHERRY, STEPHEN J	
			ART UNIT	PAPER NUMBER
			2863	

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/532,874	Applicant(s) REHO ET AL.	
	Examiner Stephen J. Cherry	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 12 and 14 is/are rejected.
- 7) ☒ Claim(s) 10 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4-28-2005</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities:

1. At page 10, line 15, the specification refers to magnetic sensor 210; however, the magnetic sensor is indicated as 212 in figure 2. Applicant is requested to verify each reference number and make appropriate corrections.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-4 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims recite steps for calculating a value without producing a tangible result; therefor the claims are drawn to non-statutory subject matter.

### ***Claim Objections***

Claims 3-4 are objected to because of the following informalities: the limitations "the detected position" and "the fed type of sport" lack antecedent basis in the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 4-5 rejected under 35 U.S.C. 102(b) as being anticipated by WO 00/67858 ('858) to Mynhardt.

Regarding claim 1, Mynhardt discloses a method (800) for measuring the distance covered by a person, characterised in fastening to the person (101) a magnetic sensor (212) with substantially stationary direction relative to the person ('858, page 11, line 11), monitoring (808) any deviation of the magnetic sensor relative to the magnetic field (304) external to the sensor ('858, page 8, line 20), and counting the times (812) the deviation of the magnetic sensor relative to the external magnetic field exceeds a set limit value ('858, page 9, line 3).

Regarding claim 2, and in view of the rejection of claim 1, Mynhardt discloses a method, characterised in that, before the performance starts, at least one of the following data is fed into the distance meter (102) reading the output of the magnetic sensor: type of sport, length of one lap or one side, data about the geometric pattern of

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the track and set value for the deviation of the magnetic sensor relative to an external magnetic field ('858, page 12, line 6).

Regarding claim 4, and in view of the rejection of claim 1, Mynhardt discloses a method, characterised in that the distance covered is determined by the counted times and the fed length of a lap or a side ('858, page 12, line 6 and page 4, line 13).

Regarding claim 5, and in view of the rejection of claim 1, WO 00/67858 ('858) to Mynhardt method, characterised in that data are delivered from the distance meter (102) to at least one other data processing device (112) ('858, fig. 1, path from 2 to 4).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9, 11-12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/67858 ('858) to Mynhardt in view of U.S. Patent 5,547,439 to Rawls et al.

Mynhardt discloses a distance meter (102) for measuring the distance covered by an object, characterised in that the distance meter (102) is a wearable distance meter, and that it comprises a magnetic sensor (212) for determining the direction of the magnetic sensor (212) relative to a magnetic field (304) external to the sensor (102) ('858, page 11, line 11), and also a counter (207) ('858, page 9, line 3), and that the wearable distance meter (102) is arranged to decrease the value of the counter (207) when the deviation of the magnetic sensor (212) relative to an external magnetic field (304) exceeds the set limit value;

characterised in that the distance meter (102) comprises fastening means (108) for fastening the sensor with substantially stationary direction relative to the object and in that the fastening means is a press stud, a strap, a belt, a suspender (108) ('858, fig. 4, ref. 58) or a garment equipped with a pocket substantially adapted to the size and shape of the meter, such as a pair of trunks.

characterised in that the distance meter (102) comprises control means (214, 216) ('858, fig. 1, ref. 2), such as a press button and a display for feeding at least one of the following data into the distance meter: type of sport, length of one lap or side ('858, page 12, line 6), information about the geometric pattern of the track and a set value for the deviation of the magnetic sensor relative to an external magnetic field;

characterised in that the distance meter (102) includes a sensor (222) for detecting the swimmer's swimming position and vertical position, respectively ('858, fig. 1, X, Y, and Z axis sensors);

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characterised in that the distance meter (102) is arranged in data transmission communication (110) with at least one other data processing device (112) ('858, fig. 1, path from 2 to 4);

characterised in that the data processing device is a computer ('858, fig. 1, ref. 2), a display screen or a device measuring pulse data (112);

characterised in that the distance meter (102) is arranged to give an alarm when a preset distance or number of laps is covered ('579, page 8, line 6);

However, Mynhardt does not disclose a decreasing counter that decreases.

Rawls discloses a counter that counts down to display of laps remaining in a particular session ('439, col. 10. line 2).

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the counter of Rawls with the invention of Mynhardt to indicate to a user how many intervals are remaining in a particular session.

### ***Allowable Subject Matter***

Claims 10 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 10 recites, "characterised in that the distance meter (102) comprises a controller (220), which is arranged to evaluate the consistency of the measured lap cycle with at

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least one of the following: fed type of sport, length of lap, length of side, geometric pattern of the track, deviation of the magnetic sensor from the limit value of an external magnetic field and spent time". This feature, in combination with the remaining claimed structure avoids the prior art of record.

Claim 13 recites, "characterised in that the distance meter (102) comprises a means (224) for detecting the operating mode of the wearable distance meter, the means allowing the conclusion whether the meter is being worn or not worn by the user". This feature, in combination with the remaining claimed structure avoids the prior art of record.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Cherry whose telephone number is (571) 272-2272. The examiner can normally be reached on M-F 8:00-4:30.

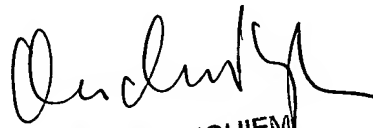
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SJC



MICHAEL NGHIEM  
PRIMARY EXAMINER